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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/252,790 02/19/99 ALAIA M 046700-5004

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LM01/0912

EXAMINER

PATEL, J

ART UNIT

PAPER NUMBER

2765

DATE MAILED:

09/12/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/252,790

Applicant(s)
ALAIA et al.

Examiner
Jagdish Patel

Group Art Unit
2765



☒ Responsive to communication(s) filed on Jun 29, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 105-152 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 129-152 is/are allowed.

☒ Claim(s) 105, 106, and 116-118 is/are rejected.

☒ Claim(s) 107-115 and 119-128 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 12

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. This communication is in response to the amendment filed 6/20/00 and 6/29/00 following the office action mailed 3/20/00.

Response to Amendment

2. Claims 1-8 and 89-104 have been canceled.
3. Claims 105-152 are on record per the amendments and have been examined.
4. The title has been amended per request.
5. In view of the amendment, 35 U.S.C. 112 rejection of claims 1-8 and 89-104 has been withdrawn.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 105,106 and 116-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. (US 5,835,896), above, and further in view of Sairamesh et al ("Economic Framework for pricing and Charging Digital Libraries", D-Lib Magazine, February 1996).

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Regarding claims 105 Fisher patent teaches a method of controlling closing times in an electronic auction ("Floating Closing Time" discussed in col. 13 L 25-54). Fisher recites "a predetermined time interval" for individual lots opened for bidding (Fig. 6 and col. 8 L 5-14). Fisher teaches shrinking or reducing the time interval the lot is open for bidding, i.e. the second closing time (closing time for a subsequent lot to be opened for auction).

Fisher, inherently teaches setting "first closing time" and "second closing time" as recited in claim 105. The closing time of the second lot is affected by the "Floating Closing Time" feature as discussed in col. 13 L 25-54. Fisher fails to disclose that this feature may also be applicable to *extending* the closing times of the first lot and the second lot as claimed. Sairamesh article teaches that prices and services are offered for "all the time-intervals" comprising different opening times and closing times on a certain day suggesting that the time intervals could be extended (p.5 app L 20-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize the Floating Closing Time as recited by Fisher to extend the first closing time (vs. reducing the first closing time), determining whether to extend the second closing time based on the extended first closing time and extending the second closing time as taught by Sairamesh because the extended closing times would provide flexibility to adjust the lot closing times according to the bid activity (volume) thereby allowing desired bidders to participate in the auction.

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Regarding claim 106, Sairamesh teaches the overtime trigger condition prior to first closing time (..time intervals .. "user demand profile and market behavior"). If the first time-interval is expanded (example by 1 hour from 6:00 A.M. And 4:00 P.M. to 6:00 A.M. and 5:00 P.M.), a corresponding first overtime (1 hour) is added to the first closing time (4:00 P.M.)).

Regarding Claim 116, the closing time of any subsequent lots (third, fourth etc.) are analyzed similar to analysis for the extension of the second closing time discussed in claim 105.

Claims 117 and 118 are analyzed similar to corresponding method claims 105 and 106 respectively.

Allowable Subject Matter

8. Claims 129-152 are allowed.
9. Claims 107-115 and 119-128 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art Cited

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

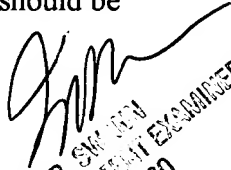
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann, can be reached at (703) 308-7791.

The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 308-5397.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

JNP 9/5/00


TOD R. SWANN
SUPERVISORY PATENT EXAMINER
GROUP 2700